THE HONOURABLE SRI JUSTICE T.CH. SURYA RAO
AND
THE HONOURABLE SRI JUSTICE G. CHANDRAIAH

W.P. No.18323 of 1999

ORDER:(per Hon'ble Sri Justice T.CH. Surya Rao)

The instant writ petition has been filed assailing the order dated 29-07-1999 passed by the learned Special Court under the A.P. Land Grabbing (Prohibition) Act, 1982 (for short 'the Act') Hyderabad in L.G.C. No.10 of 1999.

The matter seems to have a chequered career. The writ petitioners originally filed a civil suit in O.S. No.1495 of 1982 on the file of II Senior Civil Judge, City Civil Court, Hyderabad. The suit was filed for the relief of declaration of title of the plaintiffs and for consequential relief of possession and also for perpetual injunction, besides the relief of damages. Trial in the suit was commenced way back in the year 1983. When the matter reached, the stage of arguments, after closure of evidence on either side, a memo was filed by the State, the main defendant in the suit. By means of an order dated 09-11-1998 the learned Subordinate Senior Civil Judge directed the matter to be transferred to the Special Court under the Act having been of the view that the Special Court had exclusive jurisdiction to try and dispose of the case and by operation of law the case would stand automatically transferred to the Special Court. On such transfer, the suit, O.S. No.1495 of 1982, transformed itself into L.G.C. No.10 of 1999 on the file of the Special Court. Inasmuch as, the entire evidence, both oral and documentary,
was adduced on either side before the Civil Court and as the matter reached

the stage of arguments, presumably the Special Court having been of the view that there was no need to record the evidence afresh, treated the evidence recorded by the Civil Court as evidence in
L.G.C. Arguments, however, seem to have been addressed before the Special Court on either side. After having heard either side,
the learned Special Court under the impugned judgment dismissed the application. As stated hereinabove in the instant writ petition that is now being assailed.

Admittedly, the suit was filed for declaration of title in favour of the plaintiffs *qua* the 1st defendant-State and for consequential relief of possession. No allegation whatsoever, alleging *inter alia* in the plaint of any act of land grabbing, has been made. It is trite that the allegation of the act of land grabbing alone gives the necessary jurisdiction to the Special Court and takes away the jurisdiction of the Civil Court.
The proposition that plaint decides forum but not the plea taken *inter alia* in the written statement is now well settled. The plaint as stated hereinabove, has been transformed itself into L.G.C. No.10 of 1999,
which earlier was a suit for declaration of title and for consequential relief of possession. The averments *inter alia* in the plaint gives the necessary jurisdiction to the Civil Court. Somehow, under the mistaken impression, the learned Senior Civil Judge directed the transmission of the record to the Special Court invoking sub-section (8) of Section 8 of the Act, the learned Judge did not examine the jurisdictional issue. Even the Special Court failed to examine the jurisdictional issue and proceeded to adjudicate the same.

A plain reading of Section 8 of the Act shows that the Special Court is

competent to take cognizance of a case arising out of any alleged act of land grabbing and determine the ownership and title to, or lawful possession of, the land allegedly grabbed. The plaint is conspicuously silent of any such act of land grabbing. In that view of the matter and in view of the judgment of the Apex Court in ***N. SRINIVASA RAO v. SPECIAL COURT UNDER A.P. LAND GRABBING (PROHIBITION) ACT, AND OTHERS***[1]
the suit, as it originally framed, gives jurisdiction only to the Civil Court and at any rate the Special Court has no jurisdiction to entertain the same.
The impugned judgment, in sequel thereto, becomes a judgment having been rendered without the necessary jurisdiction and is *non est*.
In view of the peculiar circumstances in this case, there is no other option except to direct the plaint, as was originally presented before the Civil Court and renumbered as L.G.C. No.10 of 1999 on the file of the Special Court on transfer by operation of law, to be returned to the petitioners, so as to represent the same before the Civil Court having jurisdiction to try the suit.
Having regard to the chequered career of the matter, it is expedient, in the interest of justice, to direct both the parties, who are present before us, to appear before the Civil Court, on such representation of the plaint before that Court on any date convenient to both the parties.

Since the learned counsel for the writ petitioners and the learned Government Pleader for Assignments representing State are present before us and order is being passed in the open Court in their presence keeping in view of the possible time for taking return of the plaint from the Registry and representation of the same before the Civil Court,
it is reasonable to fix the date for appearance before the Civil Court on 29-08-

2006 so that in the meanwhile the petitioners can take return of the plaint from the Registry and represent the same. This, in our considered view would avoid further delay in the matter.

It is open to both the parties to file necessary memo before the Civil Court. On such representation, after producing the evidence recorded by that Court earlier, treat the same as evidence in the suit, so that the ordeal in conducting the trial afresh can be avoided. On such memo being filed by both the parties, necessary orders, appropriate in the matter, can be passed by that Court.

The writ petition is allowed and the impugned judgment dated 29-07-1999 in L.G.C. No.10 of 1999 is hereby set aside and the plaint as it was originally presented before the Civil Court and renumbered as L.G.C. No.10 of 1999 on the file of the Special Court under the A.P. Land Grabbing (Prohibition) Act is hereby directed to be returned to the writ petitioners so as to present the same before the competent Civil Court and both the parties are also directed to appear before the Civil Court on 29-08-2006 without fail.

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T. CH. SURYA RAO, J

Date: 04-07-2006

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G. CHANDRAIAH, J

LSK

[1] 2006(1)Decisions Today (SC)460